

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

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|----------------------------------|---|---|
| JEOFFREY L. BURTCH, CHAPTER 7 |) | |
| TRUSTEE, FACTORY 2-U STORES, |) | |
| INC., et al., |) | |
| Plaintiffs, | |) |
| | |) |
| v. | |) |
| | |) |
| MILBERG FACTORS, INC., |) | |
| CAPITAL FACTORS, INC., THE CIT |) | |
| GROUP/COMMERCIAL SERVICES, INC., |) | |
| GMAC COMMERCIAL FINANCE LLC, |) | |
| HSBC BUSINESS CREDIT (USA) INC., |) | |
| ROSENTHAL AND ROSENTHAL, INC., |) | |
| STERLING FACTORS CORPORATION, |) | |
| WELL FARGO CENTURY, INC., |) | |
| Defendants. | |) |
| | |) |

**MOTION OF DEFENDANTS GMAC COMMERCIAL FINANCE LLC,
STERLING FACTORS CORPORATION and WELLS FARGO CENTURY, INC.
FOR AN ORDER DISMISSING THE COMPLAINT**

Defendants GMAC Commercial Finance LLC, Sterling Factors Corporation and Wells Fargo Century, Inc., respectfully move the Court for an Order, substantially in the form annexed hereto, pursuant to Federal Rule of Civil Procedure 12(b)(6), dismissing the Complaint filed in this action on the ground that the Complaint fails to state a claim, and is time-barred. The basis for the requested relief is fully set forth in the Declaration of Stuart M. Brown, executed December 17, 2007 with Exhibits "A" through "D" annexed thereto and Defendants' Opening Brief in Support of Their Motion to Dismiss, which are being served and filed contemporaneously herewith.

[Signature page follows]

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December 17, 2007

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 17, a copy of the attached was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following counsel of record:

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In addition, the undersigned forwarded a copy of same in the manner indicated below to:

BY HAND

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